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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/569,013

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Richard W. Whiting

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EXAMINER

FIELDS, BENJAMIN S

ART UNIT

PAPER NUMBER

3692

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/569,013	Applicant(s) WHITING ET AL.	
	Examiner BENJAMIN S. FIELDS	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,9,12,14-16,18-22,27,31,34 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,9,12,14-16,18-22,27,31,34 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>21 February 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. The following is a **NON-FINAL** Office Action in response to the communication received on 21 February 2006. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 are now pending in this application.

Response to Amendments/Status of Claims

2. Applicant's Amendment has been acknowledged in that: **Claims 1-4, 6-8, 10-11, 13, 17, 23-26, 28-30, 32-33, 35, and 39-60 have been cancelled; Claims 5, 9, 12, 14-16, 27, 31, 34, and 36-38 have been amended;** hence, as such, **Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34, and 36-38 are pending within this application.**

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 of this instant application conflict with Claims 1-50 of pending Application No. 10/645,778.

37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

4. Claims 5, 9, 12, 14-16, 18-22, 27, 31, 34 and 36-38 are provisionally rejected as claiming the same invention as that of the copending Application. This is a provisional statutory obviousness-type double patenting rejection since the conflicting claims have not in fact been patented. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same if not very similar inventive concept.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3692

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 5, 9, 12, 14, 16, 18, 27, 31, 34, 36, and 38 are rejected under 35

U.S.C. 102(e) as being anticipated by Bent et al. (US PG Pub. No. 2006/0212385),

[hereinafter Bent].

Referring to Claim 5: Bent teaches a method for facilitating financial transactions between depositor groups and commercial banks, the method comprising: (a) determining deposit needs of a plurality of depositor groups; (b) aggregating the deposit needs of the depositor groups to provide a stable funds source; (c) notifying commercial banks of the availability of the stable funds source and an amount of funds available in the stable funds source; (d) setting an interest rate to be paid to the depositor groups to a predetermined value based on an interest rate that the commercial banks are willing to pay for the stable funds source and an interest rate the depositor groups expect as a return for use of funds in the stable funds source; (e) receiving account postings from the commercial banks; (f) depositing funds from the stable funds source in the accounts; and (g) allowing the depositor groups to withdraw funds from the accounts on a demand basis without penalty, wherein determining deposit needs of a plurality of depositor groups includes determining deposit needs of different corporations and wherein aggregating the deposit needs includes aggregating funds from the corporations (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025).

Referring to Claim 9: Bent discloses a method for facilitating financial transactions between depositor groups and commercial banks, the method comprising: (a) determining deposit needs of a plurality of depositor groups; (b) aggregating the deposit needs of the depositor groups to provide a stable funds source; (c) notifying commercial banks of the availability of the stable funds source and an amount of funds available in the stable funds source; (d) setting an interest rate to be paid to the depositor groups to a predetermined value based on an interest rate that the commercial banks are willing to pay for the stable funds source and an interest rate the depositor groups expect as a return for use of funds in the stable funds source; (e) receiving account postings from the commercial banks; (f) depositing funds from the stable funds source in the accounts; and (g) allowing the depositor groups to withdraw funds from the accounts on a demand basis without penalty, wherein setting the interest rate to be paid to the depositor groups to a predetermined value includes setting the interest rate to a value equal to the interest rate that the commercial banks are willing to pay for the funds (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025).

Referring to Claim 12: Bent shows a method comprising receiving incoming deposits and withdrawal requests from the depositor groups, satisfying the incoming withdrawal requests using the incoming deposits, and updating account records to change ownership of deposited funds without withdrawing funds from the commercial banks. (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025).

Referring to Claim 14: Bent discusses a method wherein depositing funds in the accounts includes depositing funds in excess of a federal deposit insurance limit from a single depositor group in a master NOW account of a single commercial bank and providing federal deposit insurance or a collateral for the entire deposit (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025).

Referring to Claim 16: Bent teaches a method wherein the depositor groups comprise pooled depositor groups and wherein the accounts comprise master negotiated order of withdrawal accounts (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025).

Referring to Claim 18: Bent discloses a method a method for facilitating financial transactions between commercial banks and depositors, the method comprising: (a) receiving deposit account postings from a plurality of different commercial banks; (b) determining a deposit need of at least one depositor; and (c) matching the deposit need with the deposit account postings in a manner that provides deposit insurance for funds deposited by the depositor (Bent: Abstract; Figures 1-3; Page 1, Paragraph 0005-Page 3, Paragraph 0025).

Referring to Claims 27, 31, 34, 36, and 38: Claims 27, 31, 34, 36, and 38 are directed towards a computer program product for Claims 5, 9, 12, 14, 16, and 18. As such, Claims 27, 31, 34, 36, and 38 are rejected under the same basis as are Claims 5, 9, 12, 14, 16 and 18 as mentioned supra.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 15, 19-22, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bent in view of Jacobsen (US PG Pub. No. 2003/0023529), [hereinafter Jacobsen].

Referring to Claim 15: Bent shows the limitations of Claim 9.

Bent, however, does not expressly disclose a method wherein the commercial banks report the funds deposited in the accounts as core deposits.

The Examiner notes although Bent does not expressly teach a method wherein the commercial banks report the funds deposited in the accounts as core deposits, such an administrative detail does not patentably distinguish the presently claimed subject matter over the prior art.

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the method of Bent for money fund banking with multiple banks and/or rates with and added ability to allow a bank the ability to report the funds deposited in the accounts as core deposits if they so desired.

Referring to Claims 19-22: Bent discusses the limitations of Claim 18.

Claim 19 recites the limitation “the method ... wherein the depositor comprises an individual entity”.

Claim 20 recites the limitation “the method ... wherein the individual entity comprises a human being”.

Claim 21 recites the limitation “the method ... wherein the individual entity comprises a corporation”.

Claim 22 recites the limitation “the method ... wherein matching the deposit need with the deposit account posting includes auctioning available deposits to the commercial banks”.

The Examiner notes the limitations within Claims 19-22 to be signified only as nonfunctional descriptive material and do not alter how the method operates. Thus, this descriptive material does not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Referring to Claim 37: Claim 37 is directed towards a computer program product for Claim 15. As such, Claim 37 is rejected under the same basis as is Claim 15 as mentioned supra.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Star (US PG Pub. No. 2002/0188564) shows a system and method for depositing funds to a financial service provider.

Jacobsen (US PG. Pub. No. 2003/0135437) teaches a method and apparatus for fully insuring large bank deposits.

Star (US PG Pub. No. 2003/0200174) discusses a system and method for depositing funds to a financial service provider.

Any inquiry concerning this communication should be directed to BENJAMIN S. FIELDS at telephone number 571.272.9734. The examiner can normally be reached MONDAY through THURSDAY, 9AM to 7PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMBIZ ABDI can be reached at (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 3692

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin S. Fields

12 March 2008

/Frantzy Poinvil/

Primary Examiner, Art Unit 3692